OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

VANTAGE CREDIT UNION,)	No. ED100333
)	
Respondent,)	Appeal from the Circuit Court
)	of Jefferson County
vs.)	
)	Honorable Stephen D. Bouchard
JIMMY M. CHISHOLM,)	-
)	
Appellant.)	FILED: September 9, 2014

Appellant Jimmy Chisholm ("Chisholm") appeals from the judgment of the trial court granting summary judgment in favor of Respondent Vantage Credit Union ("Vantage") on Vantage's claim for breach of contract and Chisholm's counterclaims for vexatious refusal to pay, fraud, violation of the Missouri Merchandising Practices Act ("MMPA"), and breach of contract. The trial court found no genuine issue as to the material facts establishing that Chisholm breached his credit agreement with Vantage by failing to make payments on his outstanding credit card balance. Chisholm's counterclaims allege Vantage breached its obligations relating to Chisholm's purchase of credit disability insurance through Vantage. The trial court also granted summary judgment in favor of Vantage on the counterclaims finding that Chisholm could not succeed on his counterclaims because Vantage is not an insurer.

AFFIRMED IN PART, REVERSED IN PART.

<u>Division III holds</u>: Because genuine issues of material fact exist as to whether Vantage performed its obligations with regard to Chisholm's purchase of credit disability insurance coverage, we reverse the trial court's judgment with respect to Chisholm's counterclaim for breach of contract only. Because the trial court properly found no genuine issues of material fact with regard to the remaining claims, we affirm the trial court's entry of judgment in all other respects.

Opinion by: Kurt S. Odenwald, P.J., Robert G. Dowd, Jr., J. and Gary M. Gaertner, Jr., J. Concur.

Attorney for Appellant: John J. Pawloski

Attorney for Respondent: Bonnie L. Clair, Petya B. Beltcheva and Jill R. Rembusch

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